

Becker



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Dynamic Instruments, Inc.

File: B-270781

Date: January 17, 1996

DECISION

Dynamic Instruments, Inc. protests the award of a contract by the Department of the Navy under solicitation No. N00421-95-R-5071. Dynamic contends that the solicitation contains numerous defects and that any award is improper.

We dismiss the protest as untimely because it challenges alleged improprieties in the solicitation, incorporated after initial submission of offers, that should have been protested before the next closing time after the changes were made to the solicitation.

Our Bid Protest Regulations contain strict rules for the timely submission of protests. These rules specifically require that protests based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of proposals must be filed before that time. Section 21.2(a)(1), 60 Fed. Reg. 40,737, 40,740 (Aug. 10, 1995) (to be codified at 4 C.F.R. § 21.2(a)(1)). This rule includes challenges to alleged improprieties that did not exist in the initial solicitation but which subsequently were incorporated. In such cases, the solicitation must be protested not later than the next closing time for receipt of proposals following the incorporation. NASCO Aircraft Brake, Inc., B-237860, Mar. 26, 1990, 90-1 CPD ¶ 330.

These timeliness rules reflect the dual requirements of giving parties a fair opportunity to present their cases and resolving protests expeditiously without unduly disrupting or delaying the procurement process. Air Inc.-Request for Recon., B-238220.2, Jan. 29, 1990, 90-1 CPD ¶ 129. In order to prevent these rules from becoming meaningless, exceptions are strictly construed and rarely used. Id.

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